



## RESPONSES TO INFORMATION REQUESTS (RIRs)

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### IND100662.E

India: Treatment by Indian authorities of Indian citizens who are deported to India from other countries, return to India without a valid passport and who are suspected of having requested refugee status while abroad (2000 - 2005)

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On 1 October 2005, the Advance Passenger Information System (APIS) came into effect in India (India 7 July 2005a; *ibid.* 7 July 2005b). The rules governing this system state that pilots of aircrafts destined for India are required to send passenger information electronically to immigration authorities in India within 15 minutes of their departure for India (*ibid.*; *ibid.* 7 July 2005a; Press Trust of India 29 May 2005). The following passenger information is transmitted: name, date of birth, nationality, sex, passport number, country issuing passport, country of permanent residence and visa number, date and place of issue" (India 7 July 2005a; *ibid.* 7 July 2005b). The "immigration central hub," as well as the immigration system at the destination airport in India, receives the data after which immigration authorities at the airport check the information received against lists they maintain (*ibid.*). This data is then shared with other Indian government border control agencies (*ibid.*). Details on this information-sharing mechanism as well as the nature of lists immigration authorities maintain could not be found among the sources consulted for this Response.

### Deportees

Amnesty International reported in January 2003 that

Some refugees from Punjab - deported to India from western countries in recent years on the ground that after the end of the militancy period they would no more be at risk in Punjab - have been detained and charged under the lapsed [Terrorism and Disruptive Activities] Act on their return (AI 20 Jan. 2003).

Other reports on cases of Indians deported from the United States to India (*Capital Times and Wisconsin Journal* 14 Dec. 2004; *Hindustan Times* 21 Apr. 2005; US 4 Nov. 2005; States News Service 3 Feb. 2005; *Chicago Sun Times* 17 Feb. 2005), from Canada to India (AFP 15 Sept. 2005; Indo-Asian News Service 16 Sept. 2005; *Winnipeg Sun* 30 June 2005; *Ottawa Citizen* 3 Feb. 2005; *National Post* 2 Feb. 2005), and from the United Kingdom (AP 3 Oct. 2005) do not indicate whether the Indian authorities were informed of the arrival of deportees in India and the treatment these deportees encountered upon arrival in India.

An official at the Canada Border Services Agency (CBSA) wrote in 13 December 2005 correspondence to the Research Directorate that

[a]t no point during the removal process are foreign authorities informed that an individual has made a refugee claim in Canada. To support a request for a Travel Document from a foreign embassy or consulate, a removal order is provided as it confirms the CBSA's legislative requirement to seek the cooperation of a foreign government in issuing a Travel Document. A removal order contains no information regarding an application for protection.

A review of information on removals on the Websites of the United Kingdom Immigration and Nationality Directorate and the Office of Detention and Removal of the United States Immigration and Customs Enforcement also did not indicate whether the authorities of these countries inform Indian authorities about the details of deportees to India (UK Nov. 2005; US n.d.a), although, the United States' Website on Operation Predator, an operation "to target those who exploit children," states that "[Immigration and Customs Enforcement] is partnering with foreign governments" in the removal of "sexual predators" from the United States (*ibid.* n.d.b.).

Several news articles reported on cooperation between Indian authorities and authorities in United Arab Emirates (UAE) (*The Hindu* 10 Dec. 2002; *Hindustan Times* 3 Apr. 2005), South Africa (*The Times of India* 30 June 2000), and Thailand (Press Trust of India 11 Oct. 2000; *The Times of India* 13 Oct. 2000; *ibid.* 27 Oct. 2000) in the deportation of alleged Indian criminals to India. In one case, the Indian Ministry of External Affairs revoked the passport of a wanted Indian citizen and informed the Thai government of this action, which then issued a

deportation notice (*The Times of India* 13 Oct. 2000; *ibid.* 27 Oct. 2000), and the Indian authorities arrested this criminal upon his arrival in India on the basis of entering with an illegal passport (*The Times of India* 13 Oct. 2000). In other cases, wanted Indians deported from the UAE to India were in one case, handed over to Gujarat police (Press Trust of India 19 Dec. 2004), and in another, arrested at the Chennai airport (*Hindustan Times* 3 Apr. 2005). Another case of airport arrest involved eighteen Indians deported from the UAE who claimed to have been the victims of a human trafficking scheme (*The Hindu* 12 Mar. 2005).

In a 2005 ruling on the case of an Indian man who was contesting his deportation from Canada after being convicted of criminal negligence causing death (AFP 15 Sept. 2005), Federal Court Justice Rouleau stated the following:

There has been no persuasive evidence that he faces a substantial danger of being tortured if returned home. At best, it can be said that if Indian authorities become aware of his Canadian criminal conviction, he could be ostracised and harassed (Canada 13 Sept. 2005, Art. 26).

However, a specialist in Indian affairs is of the opinion that if a returnee to India had a "high profile," and the practice was to detain such people, then there would be a "normal likelihood" that the police would detain the returnee, and the state police rather than the federal police would conduct this detention (13 Oct. 2005). A senior director of an Indian affiliate of an international human rights organization agreed and explained that "when deported to India, these Indian citizens are generally detained by the immigration authorities and handed over to the local police who arrest them for violation of travel laws of India despite having valid passports" (VFA 23 Oct. 2005). These sources were unaware of any cases particularly involving refugee claimants.

According to the International Air Transport Association (IATA) *Guidelines on Deportation and Escort*,

[t]he deporting State shall make every reasonable effort to ensure that the authorities at the final destination, and at any intermediate transit location included in the itinerary, are advised of the deportee's movement, and of the details surrounding that movement to the extent legally allowed and appropriate in the case (IATA May 2003, Art. 3.7).

No information on whether these guidelines are followed in cases of deportation to India could be found among the sources consulted for this Response. These guidelines also advise that when making flight reservations for a deportee, departing states bring this to the attention of the flight operator (IATA May 2003, Art. 5.2), and provide the airline with the following information: name, age, sex, citizenship and destination state of the deportee; a risk assessment; and the name and nationality of any escorts (IATA May 2003, 3.4). In addition, the guidelines advise the use of a "deportee identifier code," recorded in the flight operation passenger record and on the passenger's flight coupons (IATA May 2003, Art. 3.9).

### **Suspected of Applying for Refugee Status Abroad**

According to a UNHCR legal officer,

Indian nationals who returned after having their asylum applications rejected abroad did not have problems if they returned with valid travel documents, and, if their departure had taken place with valid travel documents. Those who had not complied with Indian laws on departure and return to India might be prosecuted. Refused Indian asylum-seekers who returned to India with temporary travel documents could enter without any problems as such, but if they arrived after their passport had expired then they would be questioned about the reasons for this. These arrivals were questioned briefly and then were able to leave the airport freely (3 Nov. 2005).

Similarly, an associate professor of social and cultural anthropology specializing in Indian affairs (3 Nov. 2005) and an India-based senior director of an international human rights organization (VFA 23 Oct. 2005) agreed that those suspected of having requested refugee status abroad are often treated with suspicion and likely to be "harassed.". In contrast, the general secretary of an India-based human rights organization commented that "[g]iven the Constitutional provisions of the country there appears to be no possibility of any harassment against such persons" (PUCL 30 Oct. 2005). Due to a lack of resources, the South Asian Human Rights Documentation Centre was unable to comment on the subject of this Response.

### **Invalid Documentation**

According to an associate professor of social and cultural anthropology, who is a specialist on India, Indian citizens arriving in India must present "evidence of citizenship before they are allowed to enter the country" (UN 3 Nov. 2005). A legal officer with UNHCR adds that those not complying with Indian laws on departure and return to India "might be prosecuted" (3 Nov. 2005). News articles reporting a repatriation scheme for Indians located in Oman with expired employment visas suggest that normally Indian citizens arriving in India with expired employment visas are made to pay a fine (*Gulf News* 24 Oct. 2005; Press Trust of India 17 Oct. 2005). Additional information on the treatment of Indians arriving in India without valid identification documentation could not be found among the sources consulted by the Research Directorate.

This Response was prepared after researching publicly accessible information currently available to the Research Directorate within time constraints. This Response is not, and does not purport to be, conclusive as to the merit of any particular claim for refugee protection. Please find below the list of additional sources consulted in researching this Information Request.

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Freedom House; Global Sikhs; High Commission of India in Ottawa;

Human Rights Watch; India Centre for Human Rights and the Law; Ministry of Home Affairs; National Human Rights Commission of India; Punjab Human Rights Organization; South Asia Books; South Asia Human Rights Documentation Centre; United Kingdom India Country Report; United Kingdom Operation Guidance Notes; United Nations Development Program India; United Sikhs; United States Committee for Refugees; University of Minnesota Human Rights Library; World Sikh Organization.

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